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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,955	02/20/2002	Robert Swift	3728-0103P	3035
2292	7590	01/18/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			CHIN, PAUL T	
PO BOX 747			ART UNIT	PAPER NUMBER
FALLS CHURCH, VA 22040-0747			3652	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/077,955	SWIFT ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	PAUL T. CHIN	3652

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the next page.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1-12, 21 and 22.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 13-20 and 23.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8.  The drawing correction filed on 02 April 2004 is a) approved or b) disapproved by the Examiner.

9.  Note the attached Information Disclosure Statement(s) ( PTO-1449 ) Paper No(s). \_\_\_\_\_.

10.  Other: \_\_\_\_\_.

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Applicant's arguments filed on November 15, 2004, have been carefully considered, but they are not persuasive.

Regarding USC 112 rejection, the argument is not persuasive because the recited phrase "*a manually operated control switch for transmitting power to the pump*" is still misleading (it appears that the switch *itself* transmits power to the pump). Applicant does not recite "*a manually operated control switch for transmitting the power generated by power source to the pump*" as applicant argues (2<sup>nd</sup> paragraph of page 3). When the manual switch is *on*, the power can be transmitted to the pump. However, the power cannot be transmitted when the switch is *off*, which is contrary to what applicant is reciting the functional limitation "for transmitting power to the pump". It is pointed out that the manual switch controls the transmitting of the power to pump.

Moreover, the arguments on Ward (5,59,942) are not persuasive. Prior art (Fig. 1) of the application shows "a container (1) having a top (3) and a bottom (5) having two hinged doors (4,6), which are opened and closed using hydraulic pressure applied to hydraulic cylinders (19,19) wherein the container may take the form of a hydraulic dumpster" (see page 1, lines 15-18 of specification). Applicant modifies the hydraulic dumpster by mounting a hydraulic pressure cabinet (20) on the hydraulic dumpster or device to remotely actuate a hydraulic motor. Specifically, applicant describes on page 5, lines 22-28,

"As shown in Figs. 6A, the mount is designed so that the rail portion 24 and 44 may attach to a portion of a hydraulic device or hydraulic dumpster 1 to be suspended from the crane ..... the mount may be used to attach the cabinet 20 to various hydraulic devices so that the cabinet is portable".

Applicant does *not* describe the detailed structural elements of a hydraulic device. Applicant recites a limitation, "a mounting device (20) supported by the hydraulic device (1)" in claim 1, line 4, broadly referring "a dumpster operated by hydraulic cylinders (19,19)" as "the hydraulic device".

Applicant further argues that Ward discloses "*the major components of the hydraulic device, i.e., door positioning system, are mounted on the platform 30. In other words, the platform 30 supports the hydraulic device*" (from the 3<sup>rd</sup> paragraph of page 4). The argument is incorrect because applicant identifies "the hydraulic device" as "a door positioning system as shown in figure 2". Moreover, Ward discloses frames (see Fig. 2), wheels (23,23) (Fig. 1), from four to eight hydraulic systems, each system being mounted on the frame (see Fig. 2) to open and close the doors (47,48), wherein the frames, wheels, and the hydraulic systems, supports a platform (30) and the positioning system (34). Therefore, It is pointed out that frames (see Fig. 2), wheels (23,23), and eight hydraulic systems (Col 6, lines 9-25), which can be considered as "a hydraulic device", as *broadly recited*, supports "a mounting device (30)". Claims 13-16,19,20, and 23 remain rejected.

Applicant also argues that Brice "does not show a manually operated control switch for transmitting power to the pump" (page 5). The argument is not persuasive. Brice discloses a manually control button on the pump (42) (see Fig. 2) reciting "*when pump control 116 is in the extended position and pump 42 is operated*, the ram 48 and 50 are moved to their extended position lowering drive wheels 62 and 68" (Col 3, lines 57-60) and "*when pump control is turned to the retracted position and pump 42 is operated* by one or both of the motors 44 and 46, the rams 48 and 50 are retracted into the hydraulic cylinders 34 and 36" (Col 4, lines 16-18). The meanings of the word "transmit" according to the American Heritage® Dictionary of the English Language, Third Edition, are "*to pass along (news or information); communicate; Electronics. to send (a signal), as by wire or radio, Physics. to cause (a disturbance) to propagate through a medium; to convey (force or energy) from one part of a mechanism to another; or to send out a signal*". Therefore, the extending and the retracting of the button or switch (116) substantially causes the hydraulic pump (42) to substantially

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"communicate or cause (a disturbance) to propagate through a medium, or convey (force or energy) from one part of a mechanism to another" power to the pump (42). Moreover, Brice discloses an operating button switch (90) to control motors (44,46), which in turn operate the hydraulic pump (42) (from Col 3, line 55, to Col 4, line 22).

Finally, the argument on the obviousness is not persuasive. Brice discloses a hydraulic system having a pair of hydraulic cylinders (34,36), hydraulic pump (42), driven by electric motors (44,46) to operate hydraulic cylinders (36,38) (Col 2, lines 40-53). It would have been obvious design choice to provide a hydraulic motor or a hydraulic cylinder, which are well known in the art, on the primary reference as an alternative device or a more reliable device (also see section 9 of the final rejection).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

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January 13, 2005